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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CERRO COPPER PRODUCTS COMPANY,

Plaintiff,

vs.

MONSANTO COMPANY,

Defendant.

Civil Action No. 92-CV-204-PER

**CERTIFICATION OF
JAMES L.MORGAN**

James L. Morgan hereby declares and states as follows:

1. I am a Senior Assistant Attorney General in the Environmental Bureau in the Office of the Attorney General of the State of Illinois.

2. In July of 1990, I was an Assistant Attorney General in the Environmental Bureau the Office of the Attorney General of the State of Illinois and had principal responsibility for negotiating with Cerro Copper Products Company ("Cerro"), the terms of the Consent Decree between Cerro and the State of Illinois relating to Cerro's removal action at Deed Creek Segment A, and as such, am fully familiar with the facts set forth herein.

3. The statutory predicate for the Complaint that the State of Illinois filed against Cerro and the Consent Decree that the State of Illinois reached with Cerro was, inter alia, Sections 104, 107, 113 and 121 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §9604, 9607, 9613 and 9621) (hereinafter referred to as "CERCLA").

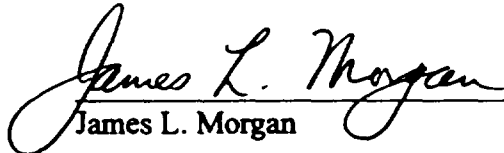
4. In July of 1990, it was the position of the State of Illinois that §121(e)(2) of CERCLA, 42 U.S.C. §9621(e)(2), authorized it to maintain an action against Cerro pursuant to §104 of CERCLA, 42 U.S.C. §9604.

5. The State of Illinois based its position in this regard on the decision of the United States District Court for the District of Colorado in State of Colorado v. Idarado Mining Company, 707 F. Supp. 1227, 1232 (D. Col. 1989).

6. The ruling of the United States District Court for the District of Colorado in this regard was subsequently reversed by the United States Court of Appeals for the Tenth Circuit in State of Colorado v. Idarado Mining Company, 916 F.2d 1486 (10th Cir. 1990); however, this reversal did not occur until October 11, 1990 a full three months after entry of the Consent Decree with Cerro.

7. Attached to this certification is a true and correct copy of the Motion to Approve Consent Decree with Cerro that I filed on behalf of the State of Illinois in conjunction with the Deed Creek Segment A removal action.

I declare, under penalty of perjury pursuant to 28 U.S.C. §1746, that the foregoing statements made by me are true and correct to the best of my knowledge.


James L. Morgan

DATED: *July 27, 1995*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff,)
)
-vs-)
)
CERRO COPPER PRODUCTS CO.,)
)
Defendant.)

Civil Action No. 90-CV-3389
WOS

MOTION TO APPROVE CONSENT DECREE

NOW COMES the plaintiff, PEOPLE OF THE STATE OF ILLINOIS, by Neil F. Hartigan, Attorney General of the State of Illinois (hereafter the "State"), and moves the court to enter the attached consent decree and, in support thereof, the State presents the following:

1. The consent decree requires the defendant, Cerro Copper Products Co. ("Cerro"), to perform a removal action pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA", 42 U.S.C. 9601, et seq.) and the Illinois Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1001, et seq.) in order to address the release and/or threat of release of hazardous substances into or from a portion of Dead Creek in Sauget, St. Clair County, Illinois.

2. The consent decree was negotiated, at arms length, by Cerro through its attorneys, consultants, and technical staff and by the State through representatives of the Illinois Environmental Protection Agency and the Office of the Attorney General.

3. The selected removal action was selected and approved based upon a remedial investigation and feasibility

study prepared by an experienced consultant and thoroughly reviewed by representatives of the Illinois Environmental Protection Agency and the Attorney General.

4. The settlement embodied in the consent decree is fair, adequate and reasonable and it is consistent with the Constitution of the United States and the mandate of Congress as set forth in CERCLA and other relevant statutes.

5. Rejection of this settlement poses risks to both the State and Cerro. Any delay in the implementation of the removal action is likely to result in a significant increase in the cost of removal and disposal. Any delay would also prolong the threat to public health and the environment posed by Dead Creek Segment A's current condition.

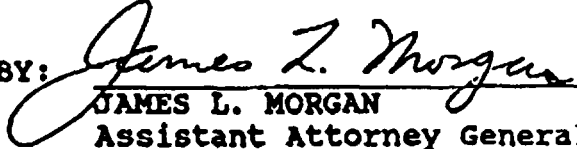
6. Because the consent decree requires performance of a removal action and the United States is not a party to the case, public notice and an opportunity for comment is not required. City of New York v. Exxon Corp. (S.D.N.Y. 1988), 697 F.Supp. 677, 690.

WHEREFORE, the State prays that the consent decree be entered forthwith.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

NEIL F. HARTIGAN
ATTORNEY GENERAL

BY: 
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DATED: *July 4, 1990*